

APPEAL NO. 032703  
FILED DECEMBER 2, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 9, 2003. With respect to the issues before her, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the first and second quarters. In its appeal, the appellant (carrier) argues that the hearing officer's determinations that the claimant satisfied the good faith requirement in the relevant qualifying periods pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102d(4)) by demonstrating that she had no ability to work and that the claimant is entitled to SIBs for the first and second quarters are against the great weight of the evidence. In his response to the carrier's appeal, the claimant urges affirmance. The parties resolved issues as to the claimant's impairment rating (IR) and whether the carrier waived its right to contest entitlement to SIBs for the first quarter by stipulating that the claimant's IR is 15% and that the carrier timely contested entitlement to first quarter SIBs.

DECISION

Affirmed.

The requirements for entitlement to SIBs are set out in Section 408.142 and in Rule 130.102. The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that she reached maximum medical improvement on May 15, 2002, with an IR of 15%; that she did not commute her impairment income benefits; that the first quarter of SIBs ran from April 4 to July 3, 2003, with a corresponding qualifying period of December 19, 2002, to March 20, 2003; and that the second quarter of SIBs ran from July 4 to October 2, 2003, with a corresponding qualifying period of March 21 to June 19, 2003. With regard to the required "good faith" requirement, the hearing officer was satisfied that the claimant proved that she had no ability to work during the qualifying periods for the first and second quarters of SIBs. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established (Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The hearing officer was persuaded that the July 29, 2003, report from Dr. M was sufficient to satisfy the requirement of Rule 130.102(d)(4) that the claimant provide a narrative report from a doctor specifically explaining how the claimant's injury caused a total inability to work. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse that determination, or the determination that the claimant is entitled to SIBs for the first and second quarters, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE HALL CORPORATION SYSTEM, INC.  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Robert W. Potts  
Appeals Judge